

(c) *Debt* means money owed by an employee of the Federal Government to an agency of the Federal Government, including direct loans, loans insured or guaranteed by the United States and all other amounts due the Government from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), erroneous salary payments, and all other similar amounts owing to the Federal Government.

(d) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. Deductions described in 5 CFR 581.105(b) through (f) will be used to determine disposable pay subject to salary offset.

(e) *Employee* means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves).

(f) *Salary Offset* means the collection of a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

§ 1650.105 Notice of Debt.

(a) *Timing and contents of notice.* Notice of the Commission's intent to collect a debt by salary offset shall be given at least 30 days before salary offset deductions are to begin. The written notice shall include the following:

(1) The Commission's determination that a debt is owed, including the origin, nature, and amount of the debt;

(2) The Commission's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest, penalties, and administrative costs are paid in full;

(3) The estimated amount, frequency, beginning date, and duration of the intended deductions;

(4) An explanation of the Commission's policy concerning interest, penalties, and administrative costs;

(5) The employee's right to inspect and copy the Commission's records pertaining to the debt or to receive copies of such records if the employee is unable personally to inspect the records, due to geographical or other constraints;

(6) The opportunity to propose a voluntary repayment schedule and agreement that is acceptable to the Commission in lieu of the proposed offset;

(7) The employee's right to a hearing conducted by an impartial hearing official (an Administrative Law Judge or an individual not under the supervision or control of the Chair) with respect to the existence and amount of the debt claimed or the repayment schedule (*i.e.*, the percentage of disposable pay to be deducted each pay period); the method and time period for requesting a hearing; that the timely request for a hearing will stay the commencement of collection proceedings; and that a final decision will be issued at the earliest practical date, but not later than 60 days after receipt of the hearing request;

(8) The employee's right to request a waiver under 5 U.S.C. 5584 or 5 U.S.C. 5524a, or compromise under 31 U.S.C. 3711;

(9) The making of any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under 5 U.S.C. chapter 75, 5 CFR part 752, or any other applicable statutes or regulations;

(ii) Penalties under the False Claims Act, 31 U.S.C. 3729 *et seq.*, or under any other applicable statutory authority; or

(iii) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or under any other applicable statutory authority; and

(10) Unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted from debts that are later waived or found not to be owed to the United States will be promptly refunded to the employee.

(b) *Exception to the advance notice requirement.* Advance notice under paragraph (a) of this section is not required:

(1) Where an adjustment to pay arises out of an employee's election of coverage, or change in coverage, under a Federal benefits program requiring periodic deductions from the employee's pay and the amount to be recovered was accumulated over four pay periods or less;

(2) Where a routine intra-agency adjustment of pay is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four pay periods preceding the adjustment and, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment;

(3) Where any adjustment of pay to collect a debt amounting to \$50 or less is made, if, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment; or

(4) Where an employee consents to withholdings from his or her current pay account.

(c) *Receipt of notice of debt.* The Notice of Debt will be sent by certified mail, return-receipt requested. The date on which the return-receipt is signed is the date on which the employee is deemed to have received the Notice of Debt.

§ 1650.106 Right to inspect and copy records related to the debt.

An employee who desires to inspect or copy Commission records related to the debt must send a request to the official designated in the Notice of Debt. In response, the Commission will notify the employee of the location and time when the employee may inspect and copy the records or send copies of such records to the employee.

§ 1650.107 Voluntary repayment agreements.

(a) In response to a Notice of Debt, an employee may propose a written repayment schedule in lieu of the proposed salary offset. Any proposal under this subsection must be received by the office of the official designated in the notice within 15 calendar days after receipt of the Notice of Debt.

(b) It is within the Commission's discretion to accept or reject a voluntary repayment proposal. The Commission shall send the employee a written decision.

(c) If the Commission decides that the proposed repayment schedule is unacceptable, and that the written proposed repayment schedule was timely received, the employee shall have a further 15 days from the date he or she received the decision on the proposed repayment schedule in which to file a request for a hearing.

(d) If the Commission decides that the proposed repayment schedule is acceptable, the agreement shall be put in writing and signed by both the employee and the Commission.

§ 1650.108 Waiver.

The Commission may waive debts, to the extent authorized by 5 U.S.C. 5584, arising out of erroneous payments of pay, when collection would be against equity and good conscience and not in the best interests of the United States, and so long as there is no indication of fraud, fault, or lack of good faith on the part of the employee. Interest, penalties, and administrative costs may also be waived under 31 U.S.C. 3717(h) and 31 CFR 901.9(g), on a case-by-case basis, if collection would be against equity and good conscience and not in the best interests of the United States.

§ 1650.109 Hearing.

(a) *Request for a hearing.* An employee who wants a hearing on the existence of the debt, its amount, or on the proposed offset schedule must send a written request to the official designated in the Notice of Debt. The request for a hearing must be received by the designated office on or before the 15th calendar day following receipt by the employee of the Notice of Debt. The request must be signed by the employee